



PLEASE ADVISE YOUR COUNTY TREASURER OF THIS OPINION.

**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

May 28, 1947

Hon. Joseph C. Ternus
County Attorney
San Patricio County
Sinton, Texas

Dear Sir:

Opinion No. V-222

Re: Maximum salary of County
Treasurer.

Your request for an opinion from this Department
on the above subject matter is as follows:

"I have been asked to construe Art. 3943
as amended by present session of the Legisla-
ture.

"The last Federal Census shows the popu-
lation of this county to be 28,871 and our
assessed valuation is around twenty-four mil-
lion dollars.

"It is evident that section (a) would
not apply.

"My question is concerning (b): In a
county where (a) does not apply, may the com-
missioners court raise the salary of the
county treasurer by 25% of the amount she was
receiving in 1944?

"Our treasurer was receiving \$2,200.00
per year in 1944 and is receiving \$2440.00 at
present time.

"Would the increase be based on what she
actually received or what she could have re-
ceived if she had been paid the maximum in the

year 1944?"

San Patricio County has a population according to the 1940 Federal Census of 28,871 inhabitants and its county officials are compensated on a salary basis. Therefore, the salary of the County Treasurer of San Patricio County is governed by the provisions of Article 3912e, Section 13, V.C.S.

H. B. 258, Acts of the 50th Legislature, 1947, p. 52, is an act amending Article 3943, V.C.S., which article is applicable to counties whose county officials are compensated on a fee basis. Therefore, H. B. 258 has no application to San Patricio County.

Section 13 of Article 3912e provides in part as follows:

"The Commissioners' Court in counties having a population of twenty thousand (20,000) inhabitants or more, and less than one hundred and ninety thousand (190,000) inhabitants according to the last preceding Federal Census, is hereby authorized and it shall be its duty to fix the salaries of all the following named officers, to-wit: sheriff, assessor and collector of taxes, county judge, county attorney, including criminal district attorneys and county attorneys who perform the duties of district attorneys, district clerk, county clerk, treasurer, hide and animal inspector. Each of said officers shall be paid in money an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by him in his official capacity for the fiscal year 1935, and not more than the maximum amount allowed such officer under laws existing on August 24, 1935; provided that in counties having a population of twenty thousand (20,000) and less than thirty-seven thousand five hundred (37,500) according to the last preceding Federal Census, and having an assessed valuation in excess of Fifteen Million (\$15,000,000.00) Dollars, according to the last approved preceding tax roll of such county the maximum amount allowed such officers as salaries may be increased one (1%) per cent for each One Million (\$1,000,000.00) Dollars valuation or fractional

part thereof, in excess of said Fifteen Million (\$15,000,000.00) Dollars valuation over and above the maximum amount allowed such officers under laws existing on August 24, 1935; . . .

"(e) The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars."

The maximum compensation the County Treasurer of San Patricio County could receive under laws existing August 24, 1935, as fixed by Article 3943, as amended by Acts of the 45th Legislature, 1937, p. 501, was \$2,000.00.

San Patricio County had an assessed valuation in 1943 of \$24,776,510.00. Therefore, the maximum compensation the County Treasurer of San Patricio County could receive for the fiscal year of 1944 as provided for by the provisions of Article 3912e, Section 13, as it then existed, was \$2200.00. (\$2000.00 plus \$200.00)

Subdivision (e) of Section 13 of Article 3912e authorizes the Commissioners' Court when in their judgment the financial condition of the county and the needs of the officers justify the increase to enter an order increasing the compensation of the officials covered by Article 3912e, Section 13, in an additional amount not to exceed 25% of the maximum sum allowed such officer under the law in 1944. Therefore, the Commissioners' Court of San Patricio County could allow the County Treasurer in 1947 an additional increase of \$550.00.

San Patricio County had an assessed valuation in 1946 of \$24,678,635.00. Therefore, the County Treasurer could receive an increase (based on the assessed valuation) of 10% of the maximum allowed under laws existing August 24, 1935, plus an additional increase of \$550.00 as provided in

Subdivision (e) of Section 13 of Article 3912e. In view of the foregoing, the maximum compensation the County Treasurer of San Patricio County could receive for the current fiscal year is \$2750.00.

You state in your letter that the County Treasurer is now receiving \$2400.00. Therefore, we would like to point out that any increase of salary for the year 1947 must be in the proportion as the balance of the year relates to the total annual increase that may be made. See our Opinion No. 0-6576, a copy of which we are herewith enclosing. In this connection we direct your attention to Article 689a-11, V.C.S. which is in part as follows:

"When the budget has been finally approved by the Commissioners' Court, the budget, as approved by the Court shall be filed with the Clerk of the County Court, and taxes levied only in accordance therewith, and no expenditure of the funds of the county shall thereafter be made except in strict compliance with the budget as adopted by the Court. Except that emergency expenditures, in case of grave public necessity, to meet unusual and unforeseen conditions which could not, by reasonably diligent thought and attention, have been included in the original budget, may from time to time be authorized by the Court as amendments to the original budget. In all cases where such amendments to the original budget is made, a copy of the order of the Court amending the budget shall be filed with the Clerk of the County Court, and attached to the budget originally adopted."

SUMMARY

The maximum compensation of the County Treasurer of San Patricio County (operating on a salary basis) for 1947 is \$2750.00. Since the County Treasurer is now receiving \$2400.00, however, any increase in salary that is now made must be in the same proportion as the balance of the year relates to the total annual increase that may be made, and must be in compliance with Article 689a-11, V.C.S., the Budget Law. Article 3912e, Sec. 13, and Arti-

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cle 689a-11, V.C.S.

Yours very truly
ATTORNEY GENERAL OF TEXAS

John Reeves
John Reeves
Assistant

JR:djm

Enclosures

APPROVED

Price Daniel
ATTORNEY GENERAL